IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 4483 of 2001

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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DIVISIONAL CONTROLLER - Petitioner(s)

Versus

KHANBHAI B PARMAR - Respondent(s)

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Appearance :

MR MITUL K SHELAT for Petitioner(s) : 1,
MR JS BRAHMBHATT for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 29/12/2005

ORAL JUDGMENT

1. This petition is directed against the judgement and award dated 27.7.99 passed in Reference I.T No. 311 of 1995 by Industrial Tribunal, Ahmedabad.

2. The short facts of the case are that the respondent herein was working as a conductor with the petitioner corporation on 12.2.92 while the respondent was on duty the bus was checked by the checking squad of the petitioner corporation and the squad found certain irregularities in the issuance of tickets by the respondent.

3. Therefore the Respondent was issued charge sheet dated 18.5.92 which was replied by the respondent vide his letter dated 21.5.92. Thereafter departmental proceedings were conducted against the respondent and since the charges levelled against the respondent were proved, a punishment of stoppage of annual increments for a period of 5 years with permanent effect was imposed.

4. Being aggreived by the said order of punishment the respondent raised an industrial dispute which was registered as I.T No. 311/95.

5. Learned counsel for the petitioner submitted that the Tribunal has failed to appreciate that the Inquiry Officer and the disciplinary authority were one and the same and therefore the question of non-supply of Inquiry officer's report on non-issuance

of second show cause notice would not arise. He therefore submitted that the impugned award requires to be set aside.

6. Learned counsel for the respondent supported the case award in question and submitted that no case is made out to cause interference.

7. As a result of hearing and perusal of the record it is found that the Tribunal has observed that there is no error in the findings of Inquiry Officer. It was also found that the respondent has not challenged the validity of the departmental inquiry. I am therefore of the view that the Tribunal has committed an error in passing the impugned award.

8. However considering the fact that the employee had already retired from the service in the year 1996 it would be appropriate to impose a reasonable penalty of stoppage of three increment with future effect on the respondent.

9. In the result the petition is allowed the award dated 27.7.99 is quashed and set aside. A punishment of stoppage of the three increment with future effect shall be imposed on the respondent. The

petitioner shall be paid the consequential benefits accordingly. Rule is made absolute accordingly with no order as to costs.

(K.S.Jhaveri,J)

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